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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/649,640	08/28/2003	Yoshinori Nakagawa	01272.020624	5555
5514	7590	05/09/2005	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			TRAN, LY T	
		ART UNIT	PAPER NUMBER	
		2853		

DATE MAILED: 05/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

H.D

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/649,640	NAKAGAWA ET AL.
Examiner	Art Unit	
Ly T. TRAN	2853	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 14 February 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 2-5, 7, 8, 11 and 12 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1, 6, 9 and 10 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>10/31/03, 9/21/04</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### ***Election/Restrictions***

1. Applicant's election with traverse of species 1 in the reply filed on 2/14/05 is acknowledged. The traversal is on the ground(s) that the various species are closely related and would not require separate fields of search. This is not found persuasive because figure 6, 7 8 and 9 are disclosed different embodiment, they do require separate search.

The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 6 and 10 are rejected under 35 U.S.C. 102(b) as being anticipate by Nakamura (USPN 6,257,696).

With respect to claims 1 and 10, Nakamura discloses an apparatus and a method that forms an image by ejecting ink from a print head (Fig.2: element 7), in which a plurality of ejecting portion rows (element 21 y, m, c, b) are arranged comprising:

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- a carriage (element 8) that scans a the print head (element 7); and
- preliminary ejecting means for ejecting the ink from the ejecting portions in the print head so such that the ejection is not involved in formation of the image  
(Column 3: line 31-59)
- wherein the preliminary ejecting means sequentially selects one of the plurality of ejecting portion rows as an ejecting portion on which an ejecting operation is performed, while the carriage is not performing a scanning operation, and said preliminary ejecting means then subjects the selected ejecting portion row to preliminary ejection (Fig.7: element S12-S15).

With respect to claim 6, Nakamura discloses that plurality of ejecting portion rows are provided for respective colors of ejected ink (Fig.2: element 21y, m, c, b).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura (USPN 6,257,696) in view of Ejiri et al (USPN 5,132,710).

Nakamura fails to teach the ejecting portions are used thermal energy to cause ink to be ejected as droplets.

Ejiri et al teaches the ejecting portions are used thermal energy to cause ink to be ejected as droplets (Column 1: line 15-25).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use thermal energy to cause ink droplets as taught by Ejiri et al. The motivation of doing so is provide a recording image of high quality, high speed and low noise.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ly T. TRAN whose telephone number is 571-272-2155. The examiner can normally be reached on M-F (7:30am-5pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Meier can be reached on 571-272-2149. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LT

May 4, 2005



Stephen D. Meier  
Primary Examiner